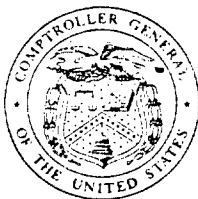


DECISION



12165 PL-1
Mr. Hordell
THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548

FILE: B-196021

DATE: November 29, 1979

MATTER OF: Wheeler Industries, Inc. D2191

[Protest Alleging Awarder's Proposal Was Nonresponsive]
DIGEST

Where request for proposals set forth definitive standards of responsibility (as contrasted with technical evaluation criteria) and permitted offerors to demonstrate compliance after closing date, and offeror did so demonstrate, award on initial proposal basis to that offeror is unobjectionable.

2 Wheeler Industries, Inc. (Wheeler), protests the award of a contract on an initial proposal basis to Seaco, Inc. (Seaco), under request for proposals (RFP) No. N00024-79-R-4209 issued by the Department of the Navy, Naval Sea Systems Command (NAVSEA). The RFP was a 100-percent small business set-aside for engineering/technical support services in the areas of diving, salvage, oil pollution and ocean engineering projects. 175

Wheeler's protest initially questioned in general Seaco's compliance with the RFP's "STANDARDS OF RESPONSIBILITY," which were in large measure definitive responsibility criteria relating to location of the contractor's plant, experience of staff personnel, corporate experience, facilities, and management capability. Subsequently, Wheeler contended that Seaco's proposal was nonresponsive to the RFP requirement that the contractor's plant should be within commuting distance of NAVSEA, Washington, D. C., since Seaco's proposal only sets forth Seaco's Kailua, Hawaii, address not its Alexandria, Virginia, address. Wheeler's comments on NAVSEA's report "do[es] not * * * question the fact that Seaco has been determined to be a responsible and competent contractor." However, the protester believes that Seaco's proposal

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*Contract award protests
bidder responsibility
eligibility criteria
compliance*

should not have reached the stage of award consideration since the Navy allegedly waived the requirements for a particular place of performance and types of personnel and facilities.

In our view, NAVSEA did not waive any of the standards of responsibility in making the award to Seaco. The preaward survey which was performed on Seaco considered these standards based on information supplied by that firm and concluded that Seaco complied. We note here that the Small Business Administration issued a certificate of competency for Seaco following NAVSEA's referral due to doubts as to that firm's financial capacity.

3 To the extent Wheeler contends that Seaco was improperly allowed after receipt of proposals to demonstrate compliance (i.e. a late proposal or impermissible discussions), the RFP permitted this procedure. More specifically, the RFP provided that proof of adherence to the standards might be requested after the time set for receipt of offers, and "Offerors are cautioned that they should not submit any technical or other data with their offers * * *." We have held that offerors may furnish after the closing date for proposals information relative to responsibility criteria which is not prejudicial to offerors. See Superior Technical Services, B-191712, September 11, 1978, 78-2 CPD 186. In this regard, the standards to which Seaco was allowed to show compliance after the closing date dealt with responsibility as opposed to technical evaluation criteria where the relative merits of competing proposals are weighed in addition to price for selection purposes. Here the award was to be made essentially to a responsible contractor on the basis of low price. Further, while the concept of responsiveness generally is inapplicable to negotiated procurements, we have permitted a bidder on a formally advertised procurement to alter a place of performance after opening to comply with a similar geographic restriction. See DOT Systems, Inc., B-193153, March 7, 1979, 79-1 CPD 160. D 1419

For these reasons, Wheeler's protest is denied.

A handwritten signature in dark ink, appearing to read "Milton J. Aorla". The signature is written in a cursive style with a large, sweeping initial 'M'.

For The Comptroller General
of the United States